

REMARKS

Claims 1-20 are pending in the application.

Claims 1-20 have been rejected.

Claims 1, 8, and 16 have been amended as set forth herein.

Claims 1-20 remain pending in this application.

Reconsideration of the claims is respectfully requested.

I. CLAIM REJECTIONS -- 35 U.S.C. § 102

Claims 1-3, 7-10, 14, and 16 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,968,192 to *Longoni* (hereinafter “Longoni”). This rejection is respectfully traversed.

A prior art reference anticipates the claimed invention under 35 U.S.C. § 102 only if every element of a claimed invention is identically shown in that single reference, arranged as they are in the claims. MPEP § 2131, p. 2100-76 (8th ed., rev. 4, October 2005) (*citing In re Bond*, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990)). Anticipation is only shown where each and every limitation of the claimed invention is found in a single prior art reference. *Id.* (*citing Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987)).

Claim 1 comprises unique and novel elements, including those emphasized below:

1. (Currently Amended) For use in a wireless network comprising a plurality of wireless communication devices, an interrogating state machine comprising:

a server status store operable to store current server status information for each of a plurality of servers, the current server status information for each server comprising load information for the server and capability information for each server; and

a server assigner operable to collect server status information from the servers, provide triggers to the servers, and to store the server status information in the server status store as current server status information, and to assign one of the servers to host one of the wireless communication devices based on the current server status information, wherein the triggers provided to the servers comprise information related to instructions on when to provide the interrogating state machine with updated server status information [Emphasis Added].

Applicant respectfully submits that the element, "*provide triggers to the servers*" and "*wherein the triggers provided to the servers comprise information related to instructions on when to provide the interrogating state machine with updated server status information*" are not taught, suggested, or anticipated by the prior art of record.

This element is fully supported by the original specification, including paragraph [042] of the original specification, as filed, which is reproduced below:

Along with the request for initial server status information, the interrogating state machine 210 may include trigger information for the serving state machines 214-216. This trigger information notifies the serving state machines 214-216 of which triggers are to prompt the serving state machines 214-216 to provide the interrogating state machine 210 with updated server status information. For example, the trigger information may comprise the load for the serving state machine 214-216 increasing by 5%, the capability of the serving state machine 214-216 changing or decreasing and/or any other suitable

information relevant to the ability of the serving state machines 214-216 to host registrations for wireless communication devices 202.

In addition, Applicant respectfully reiterates that the element, "*a server assigner operable to collect server status information from the servers, to store the server status information in the server status store as current server status information, and to assign one of the servers to host one of the wireless communication devices based on the current server status information*" is not taught, suggested, or anticipated by the prior art of record.

The Examiner has asserted On Page 6 of the February 19, 2009 office action that this element is taught by col. 6, ll. 38-44 of Longoni. For the purpose of clarity, this section is reproduced below:

After the receipt of the load information, the procedure continues at step S106. In step S106, the load status of the candidate cell is checked in the decision means 21. Based on the load status of the candidate cell, the allowance of the candidate cell to be added to the active set of the MS 1 is decided by the decision means 21 (step S107).

In the embodiment disclosed by the art of record, the local MS determines if there is capacity to add another cell. This is not the same as the disclosed "server assigner" which is "*operable to collect server status information from the servers, to store the server status information in the server status store as current server status information, and to assign one of the servers to host one of the wireless communication devices based on the current server status information.*" Nowhere in the cited prior art is a server assigner disclosed that instructs a server to host wireless communication. Rather in the cited art, each base station in the prior art makes an independent decision as to when to accept communication.

Independent Claims 8 and 16 comprise elements substantially similar to those discussed above, and therefore are respectfully submitted to be patentable for the same reasons as discussed above.

Claims 2-7, 8-15, and 17-20 depend directly or indirectly from Claims 1, 8, and 16 and are therefore submitted to be similarly patentable over the art of record.

Accordingly, the Applicant respectfully requests the Examiner to withdraw the § 102 rejection with respect to these claims..

II. CLAIM REJECTIONS -- 35 U.S.C. § 103

Claim 15 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Longoni reference. The Applicant respectfully traverses the rejection.

Claims 5, 6, 12, 13, and 17-20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Longoni reference in view of U.S. Patent Publication No. 2003/02106694 to *Jayaraman, et al.*, (hereinafter “Jayaraman”). The Applicant respectfully traverses the rejection.

Claims 4 and 11 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Longoni reference in view of the admitted prior art, APA, of Shih. The Applicant respectfully traverses the rejection.

In *ex parte* examination of patent applications, the Patent Office bears the burden of establishing a prima facie case of obviousness. MPEP § 2142, p. 2100-133 (8th ed. rev. 4, October 2005). Absent such a prima facie case, the applicant is under no obligation to produce evidence of

nonobviousness. *Id.* To establish a *prima facie* case of obviousness, three basic criteria must be met: *Id.* First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. *Id.* Second, there must be a reasonable expectation of success. *Id.* Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *Id.* The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *Id.*

Claims 4-6, 11-13, 15, and 17-20 depend directly or indirectly from Claims 1, 8, and 16 and are submitted to be patentable over the art of record for the reasons stated above.

Accordingly, the Applicant respectfully requests that the Examiner withdraw the § 103 rejection with respect to these claims.

CONCLUSION

As a result of the foregoing, the Applicant asserts that the remaining Claims in the Application are in condition for allowance, and respectfully requests an early allowance of such Claims.

If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at *jmockler@munckcarter.com*.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Deposit Account No. 50-0208.

Respectfully submitted,

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